THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.22446 of 2005

Date:10.11.2005

Sri Beedu Ramesh.

--------PETITIONER

The Chief Manager/Disciplinary Authority.

---------RESPONDENT

ORDER:

The petitioner is working as a Special Assistant in the Maruthi Nagar Branch of Allahabad Bank. Disciplinary proceedings were initiated against him, by issuing a charge sheet with certain allegations. An Enquiry Officer was appointed and he, in turn, submitted a report, dated 19.07.205, holding that the charges levelled against the petitioner are proved. The respondent issued a notice, dated 07.10.2005, to the petitioner, enclosing a copy of the enquiry report and directing the petitioner to explain as to why the punishment of withdrawal of Special Pay of Special Assistant shall not be inflicted upon him. The petitioner challenges the same on two grounds. Firstly, it is contended that the respondent was under obligation to furnish a copy of the enquiry report and it is only after considering the comments, that may have been offered by the petitioner, that further action ought to have been ensued. Secondly, it is contended that though the disciplinary authority initially proposed the punishment of stoppage of one increment, under the pressure from the Vigilance Department, he has proposed to inflict the punishment of withdrawal of Special Pay of Special Assistant. This exercise is said to be contrary to the service Rules.

In the counter affidavit filed by the respondent, the various events that ensued,

ever since the initiation of proceedings, are narrated. The respondent contends that since the enquiry report is furnished along with the impugned notice, no prejudice can be said to have been suffered by the petitioner and that he can put forward all his contentions in his reply. The allegation as to the change in the nature of punishment is also denied.

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

Though extensive submissions were made, in relation to the alleged surrender of power or discretion of the disciplinary authority to the Vigilance Department, this Court is not impressed by the same. At any rate, the said aspect becomes almost irrelevant at this stage, in view of the nature of disposal, that is being given to the Writ Petition.

A formidable objection was raised by the petitioner relating to the lapse on the part of the respondent, in furnishing the copy of the report of the Enquiry Officer, before any opinion was formed, as to the complicity of the petitioner. Reliance is placed upon the Judgment of the Supreme Court in ***Managing Director, ECIL, Hyderabad v. B.Karunkar***, wherein the Supreme Court categorically held that whenever any findings are recorded against an employee by an Enquiry Officer in the departmental proceedings, a copy of the report must be furnished to the employee, and that his comments must be invited, before the disciplinary authority takes a decision, whether or not to accept the findings in the enquiry report. It is not in dispute that such a step was not taken in the instant case. The fact that the report of the Enquiry Officer is furnished along with the show cause notice, which disclosed not only the acceptance of the findings in the enquiry report by the respondent but also the proposed punishment, hardly constitutes compliance with the ratio of the Judgment of the Supreme Court.

On that short ground, the impugned notice cannot be sustained. It can be

treated as a covering letter, forwarding the report of the Enquiry Officer. Inasmuch as the report of the Enquiry Officer is already made available to the petitioner, it shall be open to him to submit his comments/objections to the same, within a period of fifteen (15) days from today. On receipt of the same, the respondent shall take further steps, in accordance with law.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

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10.11.2005

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